

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE DR JUSTICE SHAMEEM AKTHER

Writ Appeal No.273 of 2017

JUDGMENT: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.24004 of 2012 dated 25.01.2017. The appellants herein are the petitioners in the writ petition. They filed the said writ petition questioning the action of the respondents in seeking to put the subject stalls to auction.

As the facts in issue have been elaborately detailed in the order under appeal, it is unnecessary for us to burden this judgment with a repetition thereof. Suffice it to note that the petitioners participated in a public auction in the year 2002, and were inducted into the shops by way of lease for a period of three years. They continued, thereafter, on an enhancement of the existing lease rent by 33% till the year 2012, when the lease of the subject shops were sought to be put to auction. Pursuant to the interim orders passed in the writ petition, they have been continuing ever since, though their claim in the writ petition was for renewal of the lease for a period of three years which also expired in the year 2015.

Sri K.Jaganmohan Reddy, learned counsel for the appellant-writ petitioners, would place reliance on Rule 12(2) of the Rules notified in G.O.Ms.No.496 dated 11.06.1966 which confers power on the gram panchayat to renew the lease to submit that the leases should be extended further.

While Rule 12(2) requires the gram panchayat to grant lease of its buildings and lands only by way of public auction, the proviso

thereto stipulates that, when it is advantageous to renew the lease in favour of the person to whom it was originally granted, the gram panchayat may, with the previous sanction of the District Collector, dispense with the public auction. The word “advantageous” used in the proviso can only mean advantageous to the gram panchayat, and not to the lessee of the building. It is not shown how it is advantageous to the gram panchayat to extend the lease without putting it to auction, for it is not even the case of the appellant-writ petitioners that the highest bid in the auction is less than 33%, which the gram panchayat would be entitled to collect from the exiting lessees on extension of their lease.

Reference is made to the proceedings dated 11.05.2011 whereby the lease of a canteen in the gram panchayat was renewed for a period of three years by enhancing the rent by 33%. The period of lease stipulated in the said proceedings dated 11.05.2011 is three years from 09.02.2011, which expired by 09.02.2014. Sri G.Seshadri, learned Standing Counsel for the Uravakonda Gram Panchayat, would submit that the gram panchayat does not intend extending the lease of any of the stalls; and lease of all these stalls would be granted only by way of public auction. He would further submit that the gram panchayat intends to put the lease of the hotel, the lease period of which has expired, also to public auction.

The plea of discrimination, vis-à-vis those who were granted extension, and the claim for being extended a similar benefit does not merit acceptance. As held by the Supreme Court, in **Chandigarh Administration vs. Jagjit Singh**¹, such a plea can only be examined, if the person who was granted extension of the lease has been arrayed as a respondent in the writ petition, in which event this

¹ AIR 1995 SUPREME COURT 705

Court would be required to examine whether such extension is illegal or not, for conferment of an illegal benefit would not entitle the person, who seeks a writ from this Court, for a direction that the illegality should be perpetuated. If such persons are arrayed as respondents, this Court would be in a position, in case such extension is found to be illegal, to direct the gram panchayat to terminate their leases also, and put all the leases to public auction. It is unnecessary for us to dwell on this aspect any further, in view of the submission of Sri G.Seshadri, learned Standing Counsel for Uravakonda Gram Panchayat, that all leases of shops, on expiry of the existing lease period, would be granted only by way of public auction.

In an intra-court appeal, under Clause 15 of the Letters Patent, interference is called for only if the order under appeal suffers from any patent illegality. We find no such infirmity in the order under appeal. The Writ Appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(DR. SHAMEEM AKTHER, J)

09th March, 2017
JSU

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Date: 09.03.2017

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